

Howard I. Camhi (SBN 149194)
ERVIN, COHEN & JESSUP LLP
9401 Wilshire Boulevard, Ninth Floor
Beverly Hills, California 90212-2974
Telephone (310) 273-6333
Facsimile (310) 859-2325
hcamhi@ecjlaw.com

Attorneys for Debtor and Debtor in Possession CRCH, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re	)	Case No. 2:17-bk-20270-BR
)	
CRCH, LLC, a Delaware Limited Liability	)	Chapter 11
Company)	
	)	DEBTOR'S NOTICE OF MOTION AND
Debtor.	)	MOTION FOR ORDER DISMISSING
	)	BANKRUPTCY CASE; MEMORANDUM
	)	OF POINTS AND AUTHORITIES;
	)	DECLARATION OF HOWARD I. CAMHI
	)	IN SUPPORT THEREOF
)	
)	
	)	Date: February 6, 2018
	)	Time: 2:00 p.m.
	)	Place: CTRM 1668
	)	United States Bankruptcy Court
	)	255 E. Temple St.
	)	Los Angeles, CA

TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY
JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, THE OFFICE OF THE
UNITED STATES TRUSTEE AND OTHER PARTIES IN INTEREST ON THE
ATTACHED PROOF OF SERVICE:

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1 **PLEASE TAKE NOTICE** that on February 6, 2018 at 2:00 p.m. or as soon thereafter as
2 the matter may be heard in Courtroom 1668 of the above-entitled Court located at 255 E. Temple
3 Street, Los Angeles, California, CRCH, LLC, Debtor and Debtor in Possession (hereinafter,
4 “Debtor”) will and hereby does move this Court for an Order dismissing the instant bankruptcy
5 (hereinafter, the “Motion”).

6 The grounds for the Motion include, but are not limited to, the following:

7 Debtor filed this case seeking to, among other things, forestall a then-pending foreclosure
8 scheduled by its secured lender, U.S. Bank National Association, as Trustee for the registered
9 holders of Citigroup Commercial Mortgage Trust 2007-C6, Commercial Mortgage Pass-Through
10 Certificates, Series 2007-C6 (hereinafter, “U.S. Bank”) and to enable the Debtor to consummate
11 its litigation (hereinafter, the “Lakha Case”) against the entity which sold Debtor its real property
12 as well as the principal of that entity (hereinafter, collectively referred to as “Lakha”).

13 On or about January 30, 2018, a hearing took place before the Honorable Barry Russell at
14 which time the Court granted U.S. Bank relief from stay conditioned on, among other things, its
15 agreement to postpone any foreclosure of the Debtor’s real property to no sooner than February
16 20, 2018.

17 In addition, trial of the Lakha Case has concluded and Debtor expects to have judgment
18 entered in its favor in the immediate future. Accordingly, the main objectives of the Debtor’s
19 bankruptcy case have either been (1) frustrated by U.S. Bank obtaining relief from stay thus
20 enabling a foreclosure, or (2) concluded as in the case of the Lakha Case. Accordingly, there is no
21 continuing purpose to keep this Debtor in bankruptcy and dismissal is appropriate. By dismissal
22 of the instant case, the automatic stay will no longer be in place and creditors’ abilities to pursue
23 their rights under applicable law will be resolved.

24 **PLEASE TAKE FURTHER NOTICE** that pursuant to Order of the Court, objections, if
25 any, to this Motion must be filed, served and a courtesy copy delivered to the Chambers of Judge
26 Barry Russell, no later than **Friday, February 2, 2018 at 2:00 p.m.**

27 **PLEASE TAKE FURTHER NOTICE** that pursuant to Order of the Court, replies to
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1 objection(s), if any, to this Motion must be filed, served and a courtesy copy delivered to the
2 Chambers of Judge Barry Russell, no later than **Monday, February 5, 2018 at 2:00 p.m.**

3 **PLEASE TAKE FURTHER NOTICE** that failure to timely file and serve any opposition
4 or objection may be deemed by the Court to be consent to the relief requested in the Motion.

5 **WHEREFORE**, Debtor prays that this Court enter its Order dismissing the instant
6 bankruptcy case.

7
8 Dated: January 31 2018

ERVIN COHEN & JESSUP LLP

9 By: /s/ Howard I. Camhi
10 Howard I. Camhi
11 Attorneys for CRCH, LLC
12 Debtor and Debtor-in-Possession
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MEMORANDUM OF POINTS AND AUTHORITIES

Introduction and Factual Background¹

Debtor filed a voluntary Chapter 11 petition on August 21, 2017 (hereinafter, the “Petition Date”) in order to, among other things, prevent a foreclosure scheduled by U.S. Bank for August 22, 2017. Declaration of Howard Camhi (hereinafter, “Camhi Declaration”) at ¶ 3. Since the Petition Date, Debtor has remained in possession of its property and has functioned as Debtor in possession timely complying with all requirements of a Debtor in Possession. Camhi Declaration at ¶ 4.

During the pendency of the case, U.S. Bank filed a Motion for Relief from Stay which, after being continued from time to time, was granted by this Court on or about January 30, 2018. Relief from stay was granted to U.S. Bank on the condition that it agreed to postpone any foreclosure sale to a date no sooner than February 20, 2018. Camhi Declaration at ¶ 5. Once the foreclosure sale occurs, one of the main goals of the bankruptcy case will have been frustrated.

Debtor is involved in the Lakha Case by which Debtor seeks rescission and damages from Lakha. The Lakha Case was pending on and before the Petition Date. During the pendency of this case, the parties to the Lakha Case agreed to entry of an Order of the Bankruptcy Court modifying the automatic stay to enable the Lakha Case to be litigated to its conclusion. (ECF #42). Trial in the Lakha Case has now concluded and Debtor expects to have the California Superior Court enter decision in its favor in the immediate future. Camhi Declaration at ¶ 7. Accordingly, this goal of the bankruptcy filing has been obtained by Debtor.

Accordingly, Debtor submits that the instant case should be dismissed forthwith.

Cause Exists To Dismiss The Instant Case

Section 1112(b) of the United States Bankruptcy code (11 U.S.C. § 1112(b)) provides in pertinent part that the Court shall dismiss a Chapter 11 case for “cause”. The term “cause” is not specifically defined in Section 1112 except to the extent that a non-exhaustive set of sixteen (16)

¹ The following is a brief recitation of the facts of this case and any party in interest is directed to the documents and pleadings filed herein for a more detailed history of this bankruptcy.

1 examples of what constitutes “cause” are listed. See 1112(b)(4)(A)-(P).

2 The list of examples of “cause” in Section 1112(b)(4) is not all inclusive because Section
3 1112(b) begins with the word “includes”. See 11 U.S.C. §102(3) (“includes” and “including” are
4 not limiting). A bankruptcy court may consider other factors and may use its equitable powers to
5 reach the appropriate outcome on a case-by-case basis. *In re Mechanical Maintenance, Inc.*, 128
6 B.R. 382, 386 (E.D. Pa. 1991) (quoting S.Rep No. 989, 95th Cong., 2d Sess. 117, reprinted in
7 1978 U.S. Code Cong. & Admin. News 5787, 5903). In other words, what constitutes “cause” for
8 dismissal is not clearly defined in the Bankruptcy Code, and must be determined on a case by case
9 basis. *Matter of Young*, 76 B.R. 376, 378 (Bankr. D. Del. 1987); *In re Baumgartner*, 57 B.R. 513
10 (Bankr. N.D. Ohio 1986). Accordingly, the Court can consider factors other than those listed in
11 11 U.S.C. § 1112(b)(4) in making a determination as to whether dismissal is warranted.

12 In the instant case, the combination of the Court having granted relief from stay to U.S.
13 Bank to foreclose on the Debtor’s property, coupled with Debtor having successfully concluded
14 the Lakha Case and expects judgment in its favor to be entered in the near future, constitutes
15 “cause” for dismissal of the instant case.

16 In addition, U.S. Bank has argued that, in fact, all but a small fraction of Debtor’s
17 unsecured creditors are truly independent of the Debtor (i.e. non-insider creditors). In fact, certain
18 of the creditors listed on the Debtor’s List of Creditors Who Have the 20 Largest Unsecured
19 Claims have been paid during the pendency of the case (e.g. the Utility companies). See Camhi
20 Declaration at ¶ 8. In addition, once the case is dismissed, there will be no automatic stay (See 11
21 U.S.C. § 362(c)(2)(B)) and creditors will be able to pursue whatever rights they may have under
22 state law. This factor favors dismissal of the instant case.

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1 Based on the foregoing, Debtor respectfully submits that cause exists to dismiss the instant
2 case and this Court should enter and Order dismissing this case forthwith.

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4 Dated: January 31 2018

ERVIN COHEN & JESSUP LLP

5 By: /s/ Howard I. Camhi
6 Howard I. Camhi
7 Attorneys for CRCH, LLC
8 Debtor and Debtor-in-Possession
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DECLARATION OF HOWARD I. CAMHI

I, Howard I. Camhi, declare as follows:

1. I am over the age of eighteen (18) years and am a partner in the law firm of Ervin Cohen & Jessup, LLP, counsel of record to Debtor and Debtor in Possession CRCH, LLC. I am admitted to practice before all courts of the State of California and of the Central, Northern, Southern and Eastern Districts of California and before the Ninth Circuit Courts of Appeal. I have firsthand knowledge of the facts stated herein which are personally known to me and if called upon as a witness I could, and would, competently testify to the following:

2. I make this Declaration in support of the Debtor's Motion to Dismiss.

3. I assisted the Debtor in its filing of a voluntary Chapter 11 petition on August 21, 2017 (hereinafter, the "Petition Date") in order to, among other things, prevent a foreclosure scheduled by U.S. Bank for August 22, 2017.

4. Since the Petition Date, Debtor has remained in possession of its property and has functioned as Debtor in possession, timely complying with all requirements of a Debtor in Possession.

5. During the pendency of the case, U.S. Bank filed a Motion for Relief from Stay which, after being continued from time to time, was granted by this Court on or about January 30, 2018. Relief from stay was granted to U.S. Bank on the condition that it agreed to postpone any foreclosure sale to a date no sooner than February 20, 2018.

6. Once the foreclosure sale occurs, one of the main goals of the bankruptcy case will have been frustrated.

7. Debtor is involved in the Lakha Case in which Debtor seeks rescission and damages from Lakha. The Lakha Case was pending on and before the Petition Date. During the pendency of this case, the parties to the Lakha Case agreed to entry of an Order of the Bankruptcy Court modifying the automatic stay to enable the Lakha Case to be litigated to its conclusion. (ECF #42). Trial in the Lakha Case has now concluded and Debtor expects to have the California Superior Court enter decision in its favor in the immediate future. Accordingly, this goal of the

1 bankruptcy filing has been obtained by Debtor.

2 8. During the pendency of the case, certain creditors holding unsecured claims (such
3 as utility companies) have been paid. Those having claims against the Debtor will be free to
4 pursue such claims in the event this Court dismisses the instant case.

5 9. I have served as primary counsel to the Debtor during its bankruptcy proceeding
6 and I believe that dismissal is in the best interests of creditors and this estate. Accordingly, I
7 hereby request the Court dismiss the instant bankruptcy forthwith.

8 I declare under penalty of perjury under the laws of the United States and the State of
9 California that the foregoing is true and correct and that this Declaration was executed this 31st day
10 of January at Beverly Hills, California.

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12 Howard I. Camhi, Declarant
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
9401 Wilshire Blvd. 9th Floor, Beverly Hills, CA 90212

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR'S NOTICE OF MOTION AND MOTION FOR ORDER DISMISSING BANKRUPTCY CASE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF HOWARD I. CAMHI IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 31, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Amir Gamliel agamliel@perkinscoie.com, cmallahi@perkinscoie.com; DocketLA@perkinscoie.com
- Ron Maroko ron.maroko@usdoj.gov
- Eric S Pezold epezold@swlaw.com, kcollins@swlaw.com
- J. Alexandra Rhim arhim@hemar-rousso.com
- Alan Stomel alan.stomel@gmail.com, astomel@yahoo.com
- Philip E Strok pstrok@swlawfirm.com,
gcruz@swlawfirm.com; csheets@swlawfirm.com; hdavis@swlawfirm.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Joon W. Song jsong@thesonglawgroup.com

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On January 31, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on January 31, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Barry Russell
U.S. Bankruptcy Court
255 E. Temple St., Suite 1660
Los Angeles, CA 90012

VIA FEDERAL EXPRESS

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 31, 2018 KIMBERLY ANTHONY
Date Printed Name

/s/ Kimberly Anthony
Signature

SERVICE LIST

2. SERVED BY UNITED STATES MAIL:

DEBTOR

CRCH, LLC
621 S. Western Ave., Ste. 401
Los Angeles, CA 90005

REQUEST FOR SPECIAL NOTICE:

David M. Neff
Perkins Coie LLP
131 S. Dearborn St., Ste. 1700
Chicago, IL 60603

Eunlee Investment, LLC
621 S. Western Ave., #401
Los Angeles, CA 90005

Frontier Communications
PO Box 5157
Tampa, FL 33675

Green Masters Building Service Inc.
3029 Alabama St.
La Crescenta, CA 91214

Junjin Accounting & Tax Services
2550 Pleasant Hill Rd., #439
Duluth, GA 30096

LEE Dynasty, Inc.
621 S. Western Ave. #401
Los Angeles, CA 90005

Lone H. Sorenson
621 S. Western Ave. #401
Los Angeles, CA 90005

SKT Investment, LLC
621 S. Western Ave. #401
Los Angeles, CA 90005

So. Calif. Edison Co.
PO Box 600
Rosemead, CA 91771-0001

Stratex Solutions, Inc.
1938 N. Batavia Ste. E
Orange, CA 92865

20 LARGEST UNSECURED CREDITORS

360 Twenty Four 7, Inc.
4712 Admiralty Way #304
Marina Del Rey, CA 90292

Bank of Hope
3200 Wilshire Blvd., #1400
Los Angeles, CA 90010

Bellflower Town Center
8529 Artesia Blvd.
Bellflower, CA 90706

Chino Hills Disposal
PO Box 78829
Phoenix, AZ 85062-8829

Chino Valley Pest Control
4195 Chino Hills Pkwy. #352
Chino Hills, CA 91709

City of Chino Hills
14000 City Center Dr.
Chino Hills, CA 91709

Electric Construction Company
1709 E. South St.
Long Beach, CA 90805

UCMK & Associates
3530 Wilshire Blvd., #1200
Los Angeles, CA 90010

**Attorneys for Lakha Properties-Chino Hills and
Amin Lakha**

Jeffrey Kreiger
Greenberg Glusker
1900 Avenue of the Stars, 21st Floor
Los Angeles, CA 90067

Secured Creditors

US BANK
80 S. 8TH ST., #224
MINNEAPOLIS, MN 55402

ALEX KILICK
CW CAPITAL MANAGEMENT LLC
7501 WISCONSIN AVE. #500
BETHESDA, MD 20814

MARK BIRNBAUM
PERKINS COIE LLP
1888 CENTURY PARK EAST, #1700
LOS ANGELES, CA 90067

US BANK -MIDLAND LOAN SERVICE
PO BOX 25965
OVERLAND PARK, KS 66225-5965

Unsecured Creditors

BED BATH & BEYOND
ATTN: MR. WARREN EISENBERG
650 LIBERTY AVE.
UNION, NJ 07083

BEVERAGES & MORE, INC.
ATTN: REAL ESTATE DEPT.
1401 WILLOW PASS RD., STE. 900
CONCORD, CA 94520

BP PARTNERS I, INC.
ATTN: CI HOW CHOU
13668 VALLEY BLVD., #C-2
LA PUENTE, CA 91746

COLD STONE CREAMERY
ATTN: VINCENT CHAO
13065 Peyton Dr. Ste. C
CHINO HILLS, CA 91709

CONTINENTAL FOOD MANAGEMENT, INC.
ATTN: AMER BOUKAI
32 EDELMAN
IRVINE, CA 92618

CVS HEALTH
ATTN: SHANNON MACLEOD
ONE CVS DRIVE
WOONSOCKET, RI 02895

DOLLAR TREE STORES, INC.
ATTN: LEASE ADMINISTRATION DEPT.
REFERENCE: STORE #4682
500 VOLVO PARKWAY
CHESAPEAKE, VA 23320

ELISE DENTAL
13089 PEYTON DR., STE. B
CHINO HILLS, CA 91709

EMAD HABIB
14811 CALLE BRILLANTE
CHINO HILLS, CA 91709

FANTASTIC SAMS
ATTN: SYED ARMED
C/O NORTH AMERICAN GROUP, INC.
PO BOX 28
SOUTH PASADENA, CA 91031

FAZOLI'S ITALIAN RESTAURANT
ATTN: AJAY NANDWANI -OWNER
13015 PEYTON DR.
CHINO HILLS, CA 91709

FAZOLI'S ITALIAN RESTAURANT
ATTN: AJAY NANDWANI -OWNER
1721 ACACIA HILL RD.
DIAMOND BAR, CA 91765

GATEWAY TECH CENTER
ATTN: REAL ESTATE DEPT.
155 NORTH 400 WEST, STE. 300
SALT LAKE CITY, UT 84103

GENERAL NUTRITION CORP.
ATTN: REAL ESTATE COUNSEL
300 SIXTH AVE.
PITTSBURGH, PA 15222

GREEN BANANA LEAF, LLC
13089 PEYTON DR., STE. J
CHINO HILLS, CA 91709

HALLE PROPERTIES, LLC
20225 N. SCOTTSDALE
SCOTTSDALE, AZ 85255

JP MORGAN CHASE
LEASE ADMINISTRATION
1111 POLARIS PARKWAY, FLOOR 1E
MAIL CODE: OH1-0241
COLUMBUS, OH 43240

LOS ANGELES SMSA LIMITED PARTNERSHI
DBA VERIZON WIRELESS
ATTN: NETWORK REAL ESTATE
180 WASHINGTON VALLEY RD.
BEDMINSTER, NJ 07921

MARVELOUS PARTNER, INC.
ATTN: JIAN AN TAN OR DANNY MA
13161-B PEYTON DR.
CHINO HILLS, CA 91709

NAI CAPITAL, INC.
ATTN: SAMANTHA ZOLETOVICKI DONKIN
800 N. HAVEN AVE., #400
ONTARIO, CA 91764

NUMBER 9 ENTERPRISE, INC.
ATTN: XIUHONG HUANG
13065 PEYTON DR., STE. A
CHINO HILLS, CA 91709

OMANI SOONDAE & TOFU HOUSE
12959 PEYTON DR., STE. B
CHINO HILLS, CA 91709

PETSMART, INC.
ATTN: SENIOR V.P. OF REAL ESTATE
19601 N. 27TH AVE.
PHOENIX, AZ 85027

SEUNG KWAN LEE
C/O LLOYD LEE
401 S. WESTERN AVE. #401
LOS ANGELES, CA 90005

SPIRIT HALLOWEEN SUPERSTORES LLC
ATTN: LEASE ADMINISTRATION
6826 BLACK HORSE PIKE
EGG HARBOR TOWNSHIP, NJ 08234

TRYST HAIR BOUTIQUE AND SPA, LLC
13065 PEYTON DR., STE. D
CHINO HILLS, CA 91709

UNION BANK
C/O CB RICHARD ELLIS
PORTFOLIA ADMINISTRATION SERVICES
6055 PRIMACY PKWY #300
MEMPHIS, TN 38119-5773

UNION BANK -CORPORATE REAL ESTATE
ATTN: REAL ESTATE MGR. (MC H-1RE)
350 CALIFORNIA ST., MEZZ
SAN FRANCISCO, CA 94104

UNION BANK, N.A.
OFFICE OF THE GENERAL COUNSEL
400 CALIFORNIA ST., 16TH FLOOR
SAN FRANCISCO, CA 94101

URBAN HARVEST INTERNATIONAL, INC.
ATTN: SZECHUAN CHEF -CHINO HILLS
937 E. LAS TUNAS DR., STE. B
SAN GABRIEL, CA 91776

VAN DUC TRAN AND LOC VAN TRAN
13089 PEYTON DR., STE. H
CHINO HILLS, CA 91709

WANALAPA KAEWTHONGKHAM
13089 PEYTON DR., STE I
CHINO HILLS, CA 91709

WANALAPA KAEWTHONGKHAM
13089 PEYTON DR., STE. E
CHINO HILLS, CA 91709

WINPIN 85 INVESTMENTS, INC.
DBA 85 BAKERY
1672 MCGAW AVE.
IRVINE, CA 92614

WORLD OF DECOR, INC.
11423 SATELLITE BLVD.
ORLANDO, FL 32837

YOUNG KYUN RHO
DBA U.P.S. STORE
13089 PEYTON DR., STE. C
CHINO HILLS, CA 91709

REPUBLIC DISPOSAL SERVICE
PO Box 78829
PHOENIX, AZ 85062-8829

Internal Revenue Service
300 N. Los Angeles St. M/S 5022
Los Angeles, CA 90012

Southern California Edison
1551 W. San Bernardino Rd.
Covina, CA 91722